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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 DEREK PERRY BAKER,

8 Plaintiff(s),

9 v.

10 NATIONAL IMPROVEMENT FUND LLC,

11 Defendant(s).

Case No. 2:17-CV-2746 JCM (BNW)

ORDER

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13 Presently before the court is Magistrate Judge Leen's report and recommendation
14 ("R&R"). (ECF No. 7). No objections have been made and the time to do so has passed.
15 Judge Leen recommends denying *pro se* plaintiff Derek Perry Baker's application to proceed *in*
16 *forma pauperis* and dismissing his complaint for lack of jurisdiction. (ECF No. 7). Plaintiff
17 filed a complaint that indicated the action was "removed from state court." (ECF No. 1).
18 However, a plaintiff may not remove a case to federal court. Only a defendant may remove an
19 action to federal court. 28 U.S.C § 1441. Plaintiff's complaint in state court was dismissed with
20 prejudice and his appeal with the Nevada Supreme Court was also dismissed. (ECF No. 7).

21 Plaintiff appears to be filing a federal case in an attempt to appeal an adverse state court
22 judgment. He has not brought suit under a federal question or invoked the court's diversity
23 jurisdiction. (ECF No. 1). There is no possibility the jurisdictional defect can be cured by
24 amendment because plaintiff brings only Nevada negligence claims against Nevada citizens.

25 This court "may accept, reject, or modify, in whole or in part, the findings or
26 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects
27 to a magistrate judge's report and recommendation, then the court is required to "make a de novo
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1 determination of those portions of the [report and recommendation] to which objection is made.”
2 28 U.S.C. § 636(b)(1).

3 Where a party fails to object, however, the court is not required to conduct “any review at
4 all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149
5 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a
6 magistrate judge’s report and recommendation where no objections have been filed. *See United*
7 *States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review
8 employed by the district court when reviewing a report and recommendation to which no
9 objections were made).

10 Nevertheless, this court conducted a *de novo* review to determine whether to adopt the
11 recommendation of the magistrate judge. Upon reviewing the recommendation and attendant
12 circumstances, this court finds good cause appears to adopt the magistrate judge’s findings in
13 full.

14 Accordingly,

15 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Judge Leen’s R&R
16 (ECF No. 7) be, and the same hereby is, ADOPTED.

17 IT IS FURTHER ORDERED that plaintiff’s complaint is hereby DISMISSED.

18 The clerk is instructed to enter judgment and close the case accordingly.

19 DATED March 16, 2020.

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22 UNITED STATES DISTRICT JUDGE
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